



U.S. Department of Justice

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US EPA RECORDS CENTER REGION 5



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Washington, D.C. 20530

June 3, 1983

Wayne G. Popham, Esq.
Allen Hinderaker, Esq.
Popham, Haik, Schnobrich,
Kaufman & Doty, Ltd.
4344 IDS Center
Minneapolis, Minnesota 55402

Re: United States v. Reilly Tar & Chemical Corp.

Dear Wayne & Al:

In Al's letter to me of April 4, Al asked whether the United States would agree to enter into a stipulation with the Housing and Redevelopment Authority ("HRA") of St. Louis Park in which the HRA would agree to allow the United States full access to the Reilly plant site for investigatory, remedial, and enforcement purposes, in exchange for which the United States would dismiss HRA as a defendant in the lawsuit. Al expressed the hope that the HRA might reach a similar arrangement with the State of Minnesota.

Since I received Al's letter, I have discussed this proposal with EPA Headquarters and Region V, with my superiors at the Department and with Steve Shakman of the State. I believe that the United States and HRA may be able to reach a tentative arrangement along the lines which Al proposed. Based on my conversations with Steve Shakman, I believe that the State is receptive to reviewing this matter with you. However, I must caution you that I may only recommend a party be dismissed and that any tentative arrangement we reach is subject to approval at higher levels in both the Department and EPA.

I will undertake to write a draft stipulation among the United States, the State of Minnesota, the City of St. Louis Park and the HRA. In this stipulation, the HRA would agree to provide full access to the Reilly site to the United States and the State and agree to cooperate with the United States and the State in all their investigatory, remedial and enforcement activities on the site. In exchange, the United States and the State would dismiss their claims against the HRA without prejudice.

I would ask that the City sign the stipulation as well as the HRA so that the stipulation would be enforceable against the City once the HRA ceased to be a party in the lawsuit subject to the court's authority. In this regard, it would be useful if you could describe for me the legal relationship between the City and the HRA, so that I could include that description in the stipulation.

It would also be helpful if you could give me Minnesota citations for the proposition that a dismissal without prejudice of one defendant does not operate as a release of other defendants in the same action. I understand that Minnesota does not follow the rule adopted in some states that the release of one defendant functions as the release of all other defendants. I would appreciate learning of any authorities which would confirm that understanding.

I hope this proposal meets with your approval.

Sincerely yours,

Assistant Attorney General
Land and Natural Resources Division

By:



David Hird
Attorney, Environmental Enforcement
Section

cc: Stephen Shakman, Esq.
Robert Leininger, Esq.
Deborah Woitte, Esq.

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